

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #2	CCRB Case #: 201800279	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/11/2018 6:21 AM	Location of Incident: Halsey Street L-train Subway Station	Precinct: 83	18 Mo. SOL 7/11/2019	EO SOL 7/11/2019	
Date/Time CV Reported Thu, 01/11/2018 1:42 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 01/11/2018 1:42 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM James Hughes	29162	909791	TB DT33
2. POM Colin Allsop	19850	934384	TB DT33

Officer(s)	Allegation	Investigator Recommendation
A.POM James Hughes	Abuse: Police Officer James Hughes stopped § 87(2)(b)	
B.POM James Hughes	Abuse: Police Officer James Hughes stopped individuals.	
C.POM Colin Allsop	Abuse: Police Officer Colin Allsop stopped § 87(2)(b)	
D.POM Colin Allsop	Abuse: Police Officer Colin Allsop stopped individuals.	
E.POM James Hughes	Abuse: Police Officer James Hughes threatened to arrest § 87(2)(b)	
F.POM James Hughes	Abuse: Police Officer James Hughes threatened to arrest individuals.	
G.POM James Hughes	Discourtesy: Police Officer James Hughes spoke discourteously to § 87(2)(b)	
H.POM James Hughes	Off. Language: Police Officer James Hughes made remarks to § 87(2)(b) based upon his perceived sexual orientation.	
I.POM James Hughes	Off. Language: Police Officer James Hughes made remarks to § 87(2)(b) based upon race.	
J.POM James Hughes	Abuse: Police Officer James Hughes took a recording of § 87(2)(b)	

Case Summary

On January 11, 2018, § 87(2)(b) submitted the following complaint via the CCRB website. On January 13, 2018, he filed a complaint about the same incident with IAB via 311, which was received by the CCRB on January 29, 2018, via IAB Log #18-2030,

At approximately 6:21 a.m. on January 11, 2018, § 87(2)(b) was in the Halsey Street L-train subway station in Brooklyn on his way to work. Because it appeared that the turnstile was not working, he and approximately five to ten other individuals walked through the emergency exit gate in order to get to the train platform. After they walked onto the platform through the emergency exit, Police Officers James Hughes and Colin Allsop of Transit District Bureau 33 stood in front of them, blocking the path to the train (**Allegations A, B, C, and D: Abuses of Authority:** § 87(2)(g) Police Officer Hughes allegedly said, “We’re all going to be taking you in today for jumping the gate” (**Allegations E and F: Abuses of Authority:** § 87(2)(g) § 87(2)(b) said, “This is ridiculous,” and attempted to walk past Police Officer Hughes. Police Officer Hughes grabbed § 87(2)(b) by his right shoulder. § 87(2)(b) said, “Get your hands off me.” Police Officer Hughes allegedly said, “No. You’re not listening to me. I have every right to touch you and grab you if I want.” § 87(2)(b) replied, “No you don’t.” Police Officer Hughes allegedly replied, “Yes I do you fucking fairy faggot. You’re no different than any different nigger on the street that we’re out here arresting, so get back in line with everyone else” (**Allegations G: Discourtesy:** § 87(2)(i) (**Allegations H and I: Offensive Language:** § 87(2)(g) § 87(2)(b) took a photograph of Police Officer Hughes’ shield number and yelled at him. During this time, Police Officer Hughes was holding his NYPD cell-phone in a manner that led § 87(2)(b) to believe that Police Officer Hughes was taking a picture or video of him (**Allegation J: Abuse of Authority:** § 87(2)(g) § 87(2)(b) and the other individuals who had been stopped were escorted out of the platform area by the officers. They were then allowed to swipe their Metro Cards to get back into the platform area. § 87(2)(b) was not arrested or issued a summons and neither were any of the individuals who had been stopped with him.

No video footage was found by the investigation in regards to the incident. As per the MTA Legal Department, they do not maintain cameras at the subway station where this incident occurred.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer James Hughes stopped § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer James Hughes stopped individuals.

Allegation C – Abuse of Authority: Police Officer Colin Allsop stopped § 87(2)(b)

Allegation D – Abuse of Authority: Police Officer Colin Allsop stopped individuals.

Allegation E – Abuse of Authority: Police Officer James Hughes threatened to arrest

§ 87(2)(b)

Allegation F – Abuse of Authority: Police Officer James Hughes threatened to arrest individuals.

§ 87(2)(b) provided a telephone statement to the CCRB on January 17, 2018 (Board Review 01), and was interviewed at the CCRB on January 30, 2018. § 87(2)(b) s roommate, and a witness to part of this incident, § 87(2)(b) provided a telephone statement to the CCRB

on February 2, 2018 (Board Review 02). Police Officer Allsop was interviewed on February 22, 2018. Police Officer Hughes was interviewed on March 1, 2018.

§ 87(2)(g) It is undisputed that Police Officer Hughes and Police Officer Allsop stopped § 87(2)(b) and the group of individuals he was walking with after they walked through the emergency gate and onto the station platform.

As per § 87(2)(b) after the group was stopped, Police Officer Hughes stated that they were all going to be arrested for entering the platform through the emergency exit. § 87(2)(b) walked past Police Officer Allsop and attempted to walk past Police Officer Hughes, who stood with his arms outstretched to prevent anyone from walking past him. Police Officer Hughes grabbed § 87(2)(b) by the right shoulder and told him to move against the wall. § 87(2)(b) moved against the wall. The officers instructed each individual to go out of the station in order to legally pay their fares and to reenter through the turnstile. Each individual walked out of the station platform area and returned after swiping each of their respective Metro Cards. § 87(2)(b) took a photograph of Police Officer Hughes' name and shield number, and left by taking the Manhattan-bound L-train.

Police Officers Hughes and Allsop both described observing this group of individuals walk through the emergency gate and stopping them. Both officers denied that Police Officer Hughes threatened any of the individuals, including § 87(2)(b) with arrest.

§ 87(2)(b) did not witness this portion of the incident. It is undisputed that between five and ten individuals were stopped at the same time as § 87(2)(b). However, § 87(2)(b) did not know any of them and neither Police Officer Hughes nor Police Officer Allsop documented any of their identities. Consequently, the investigation was unable to identify any of these individuals.

According to New York State Penal Law §165.15(3) a person is guilty of theft of services when, with intent to obtain subway public transportation service without payment of the lawful charge, he obtains or attempts to obtain such service or avoids payment by stealth, deception, or mechanical deception (Board Review 03). According to Patrol Guide 212-11, a stop may be conducted when a police officer has an individualized reasonable suspicion that the person stopped has committed a crime (Board Review 04).

§ 87(2)(g)
[REDACTED]

Allegation G – Discourtesy: Police Officer James Hughes spoke discourteously to § 87(2)(b)

Allegation H – Offensive Language: Police Officer James Hughes made remarks to § 87(2)(b) based on his perceived sexual orientation.

Allegation I – Offensive Language: Police Officer James Hughes made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) alleged that when he attempted to walk past Police Officer Hughes, Police Officer Hughes grabbed him by the right shoulder. § 87(2)(b) told Police Officer Hughes that he did not have a right to touch him. In response, Police Officer Hughes brought his mouth close to § 87(2)(b)'s ear, and said, “Yes I do you fucking fairy faggot. You’re no different than any different nigger on the street that we’re out here arresting, so get back in line with everyone else.” § 87(2)(b) was not sure whether Police Officer Allsop had heard what Police Officer Hughes said. § 87(2)(b) told Police Officer Hughes that he could not call him a “faggot” or “the n-word.” He complained to Police Officer Allsop that Police Officer Hughes was “using the n-word.” § 87(2)(b) and Police Officer Hughes are white males. Police Officer Allsop is a black male.

Police Officer Hughes stated that when § 87(2)(b) attempted to walk past him as they attempted to stop the group, he placed his hand on § 87(2)(b)'s shoulder and instructed him to move against the wall where the other individuals were standing. In response, § 87(2)(b) said, “You’re stopping a gay white boy.” Police Officer Hughes denied calling § 87(2)(b) a “fairy fucking faggot,” or using any of those words while speaking with § 87(2)(b). He denied using the word “nigger” while speaking to § 87(2)(b).

Police Officer Allsop stated that he never heard Police Officer Hughes call § 87(2)(b) a “fairy fucking faggot.” He denied hearing Police Officer Hughes use the word “nigger” during the incident. § 87(2)(b) did not complain to Police Officer Allsop that Police Officer Hughes called him a “faggot” or “nigger.” He denied that Police Officer Hughes used any profanity during the incident.

§ 87(2)(b) stated that on the morning of this incident, he entered the Halsey Street L-train station and observed § 87(2)(b) yelling at Police Officer Hughes. § 87(2)(b) yelled something about Police Officer Hughes touching him. He did not hear § 87(2)(b) make any statements regarding racial or homophobic statements. § 87(2)(b) observed the confrontation between § 87(2)(b) and Police Officer Hughes for approximately ten seconds and then he got onto the train and went to work.

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Allegation J – Abuse of Authority: Police Officer James Hughes took a recording of

§ 87(2)(b)

§ 87(2)(b) stated that, after he complained to Police Officer Allsop that Police Officer Hughes had called him a “faggot” and used “the n-word,” Police Officer Hughes withdrew a black cell phone and appeared to record him based on the direction the phone was pointed. § 87(2)(b) told Police Officer Hughes, “You have no right to be recording me. You have no right to touch me. This is totally uncalled for and unprofessional.” § 87(2)(b) then took a photograph of Police Officer Hughes’ name and shield number with his cell phone.

In the photograph § 87(2)(b) attached to his initial complaint (Board Review 05), Police Officer Hughes’ name and shield number is depicted, and it appears that Police Officer Hughes is holding a cell phone at chest level in his right hand. The back of the cell phone appears to be facing toward § 87(2)(b) however it is unclear whether the camera of Police Officer Hughes’ phone is angled towards the ground or upwards toward § 87(2)(b)

Police Officer Hughes stated that after § 87(2)(b) had reentered the station area, Police Officer Hughes’ cell phone was out and in his hand. He did not take a photograph or video of § 87(2)(b). He did not hold his phone up as though he was recording. § 87(2)(b) appeared to take a photograph of Police Officer Hughes’ name and shield number. § 87(2)(b) said something to Police Officer Hughes at that time, but he was not paying attention to § 87(2)(b). For approximately one second, § 87(2)(b) held his phone out and pointed it toward Police Officer Hughes as though he was recording. Police Officer Hughes did not recall whether § 87(2)(b) said, “You don’t have the right to record me.”

Police Officer Allsop stated that after § 87(2)(b) reentered the platform area, he walked up to Police Officer Hughes, who was holding his NYPD issued telephone in his hand, and said, “Oh you’re recording me? You’re recording a faggot gay boy.” § 87(2)(b) complained that Police Officer Hughes was going to show the video to his friends and laugh about it. Police Officer Allsop did not believe that Police Officer Hughes recorded § 87(2)(b) during the incident.

As previously discussed, § 87(2)(b) stated that he observed § 87(2)(b) interacting with Police Officer Hughes for about ten seconds. § 87(2)(b) believed that § 87(2)(b) and Police Officer Hughes were recording each other with their cell phones based on the way in which they were holding their phones.

It is undisputed that Police Officer Hughes held his phone in front of him while § 87(2)(b) took a photograph of his name and shield number. § 87(2)(g)

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 06).
- Police Officer Hughes has been a member-of-service for thirty-two years and has been a subject in eight CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Allsop has been a member-of-service for thirteen years and has been a subject in two CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim request has been submitted to the New York City Comptroller's Office and the results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad 2

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date